

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
MONDAY, JULY 17, 2006 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ITEM-1: ROLL CALL.

ITEM-10: INVOCATION.

ITEM-20: PLEDGE OF ALLEGIANCE.

NON-AGENDA PUBLIC COMMENT

Non-agenda public comment is taken on Tuesday pursuant to the San Diego Municipal Code Section 22.0101.5.

**MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY
COMMENT**

REQUESTS FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE ===

Special Hearings, Discussion

ITEM-200: Fiscal Year 2007 Appropriation Ordinance.
BUGET AND FINANCE COMMITTEE'S RECOMMENDATION: On 6/28/2006, Budget voted 5 to 0 to affirm Charter Section 26 as basis of Council's intent in crafting the Appropriation Ordinance.

Adoption Agenda, Discussion, Other Legislative Items

ITEM-201: Document Amendments Related to the 2004 Interim Financing for the Wastewater System.
STAFF'S RECOMMENDATION: Introduce the ordinance.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. Public testimony on Closed Session items is taken in Open Session on Monday's, except when there is no Monday meeting. Public testimony on Closed Session items is always taken prior to the actual Closed Session. Closed Session may take place any time after public testimony, but is typically held on Tuesdays at 9:00 a.m. The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

NOTE: Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the closed session item number from the Closed Session Docket on the speaker slip. Speakers may speak "in favor" or "in opposition" to the subject.

Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session 4) Refer matters discussed to closed session.

=== LEGISLATIVE SCHEDULE (Continued) ===

Public Notices

ITEM-250: Submission of Ballot Proposals

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

ADOPTION AGENDA, DISCUSSION, HEARINGS

SPECIAL HEARINGS:

ITEM-200: Fiscal Year 2007 Appropriation Ordinance.

(See Report to the City Council No. 06-091, Independent Budget Analyst Report IBA-06-30, and memorandum 06-10 from Andrea Tevlin dated 6/12/2006.)

TODAY'S ACTION IS:

Hold the first public hearing of the ordinance.

(O-2007-13)

An Ordinance adopting the Annual Budget for the Fiscal Year 2006-2007 and appropriating the necessary money to operate the City of San Diego for said Fiscal Year.

NOTE: This item is not subject to Mayor's veto.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 6/28/2006, Budget voted 5 to 0 to affirm Charter Section 26 as basis of Council's intent in crafting the Appropriation Ordinance. (Councilmembers Peters, Atkins, Young, Frye and Madaffer voted yea.)

NOTE: Today's action is the first public hearing. See the docket of Tuesday, July 25, 2006, for the second public hearing and the introduction and adoption of the Ordinance.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

ORDINANCES TO BE INTRODUCED:

ITEM-201: Document Amendments Related to the 2004 Interim Financing for the Wastewater System.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2007-1)

Introduction of an Ordinance approving the form and authorizing the execution and delivery of a Second Supplemental Subordinated Indenture and a Second Amendment to 2004 Supplement to the Master Installment Purchase Agreement and approving certain other Agreements and actions in connection therewith.

NOTE: 6 votes required pursuant to Section 99.

STAFF SUPPORTING INFORMATION:

The City's PFFA privately placed \$152 million of Bonds in June of 2004, to finance the construction and renovation of wastewater facilities required by regulatory agencies. The Bonds were purchased by Bank of America, N.A. (Bank). Principal amortization on the Bonds will begin on March 15, 2007, and conclude on December 15, 2011. The City's current financing plan calls for retiring the privately placed Bonds with an issuance of long-term debt.

At the time of the initial sale of Bonds to the Bank, the Bank imposed a covenant prohibiting the City's Metropolitan Wastewater Department (MWWD) from incurring any additional wastewater system debt without either 1) paying off the Bonds or 2) receiving Bank approval for the additional debt. In 2005, MWWD had an opportunity to obtain a \$12.1 million twenty-year fixed rate loan (at an effective rate of approximately 1.8%) from the State and requested Bank approval to enter into the loan. The Bank subsequently agreed to the City's request to accept the \$12.1 million State loan and waived the covenant regarding additional debt for that loan only. This waiver was documented through certain amendments to financing documents for the Bonds, which were approved by the City Council on October 24, 2005. In addition to authorizing acceptance of the \$12.1 million State loan, the financing document amendments enabled the City to restructure the amortization of the Bonds.

MWWD has recently learned that two additional State loans for approximately \$18 million can be obtained. The State loan terms would be similar to the previous \$12.1 million loan. If obtained, State loan proceeds would be used to reimburse costs for two completed wastewater system projects (\$4,761,908 for Point Loma 4th pump modifications and \$13,281,530 for Point Loma S1 & S2 digester upgrades) enabling MWWD to free up money for other needed wastewater capital projects.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ORDINANCES TO BE INTRODUCED: (Continued)

ITEM-201: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The City Council previously adopted Ordinances (O-19139 on January 7, 2003 and O-19238 on November 17, 2003) authorizing MWWD to enter into loans with the State for these projects.

The City again requested the Bank's approval to acquire the two new State loans and allow for the possibility of obtaining additional loans from the State in the future. The Bank has agreed to allow MWWD to obtain the two new loans and additional State loans provided that 1) debt service on the Bonds is not subordinate to debt service on the new loans and 2) that the total amount of State loans executed by MWWD since the Bonds were issued in 2004 not exceed \$50 million. If the two currently contemplated loans are executed, there would be approximately \$20 million of additional State loan capacity remaining. It is recommended that MWWD pursue future State loan opportunities to optimize wastewater system cash flow, reduce borrowing costs and hasten the construction of required wastewater system infrastructure.

In order to facilitate acceptance of the two new State loans and allow for the possibility of obtaining additional State loans, the City Council must authorize amendments to financing documents related to the Bonds. This action would approve by ordinance a Second Supplemental Subordinated Indenture and a Second Amendment to 2004 Supplement to the Master Installment Purchase Agreement, both to be dated as of August 1, 2006. The ordinance would further authorize the Mayor, the Chief Operating Officer, or the Chief Financial Officer to take any and all actions necessary to execute the aforementioned financing documents for the Bonds. Once the amended financing documents have been executed, MWWD will be authorized to accept approximately \$38 million of new low-interest rate loans from the State (\$18 million now and as much as \$20 million in the future).

FISCAL CONSIDERATIONS:

This action would authorize necessary amendments to financing documents related to the Bonds for the purpose of acquiring two new low-interest rate State loans and allowing for the possibility of obtaining additional State loans subject to certain limitations. If obtained, State loan proceeds would be used to reimburse the costs of two completed wastewater system projects (\$4,761,908 for Point Loma 4th pump modifications and \$13,281,530 for Point Loma S1 & S2 digester upgrades) enabling MWWD to free up money for other needed wastewater capital projects. Low-interest rate State loans enable MWWD to optimize wastewater system cash flow, reduce borrowing costs and hasten the construction of required wastewater system infrastructure.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ORDINANCES TO BE INTRODUCED: (Continued)

ITEM-201: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The ordinance introduced by this action specifically authorizes payment to the Bank of not to exceed \$20,000 (from MWWD Sewer Fund 41509) for document amendment and legal fees. Fees for the City's bond counsel (Nixon Peabody, LLP) and financial advisor (Montague DeRose and Associates, LLC) have been previously authorized and will not exceed \$30,000. The total cost for amending the financing documents for the Bonds will not exceed \$50,000 and will be paid by the MWWD Sewer Fund 41509.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council previously authorized MWWD to take action to proceed with the two referenced State loans for: 1) Point Loma 4th pump modifications (Ordinance # 19139 adopted on January 7, 2003) and 2) Point Loma S1 & S2 digester upgrades (Ordinance #19238 adopted on November 17, 2003). Subsequent changes to the State loan program resulted in changes to loan document language that delayed the City's ability to proceed with the loans until the latter part of 2005. As referenced above, the City Council similarly authorized necessary amendments to financing documents for the Bonds on October 24, 2005 (Ordinance #19450) for the purpose of restructuring principal amortization and acquiring the \$12.1 million State loan.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Low-interest rate State loans result in reduced borrowing costs and accelerated infrastructure construction that ultimately benefits wastewater system ratepayers. Business entities involved in this transaction are Bank of America, N.A. (Bank), White & Case, LLP (Bank's counsel), Nixon Peabody, LLP (bond counsel) and Montague DeRose and Associates, LLC (financial advisor).

Granewich/Goldstone

Aud. Cert. 2700002.

Staff: Jeff Kwar - (619) 533-4531

Mark D. Blake – Chief Deputy City Attorney

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. Public testimony on Closed Session items is taken in Open Session on Mondays, except when there is no Monday meeting. Public testimony on Closed Session items is always taken prior to the actual Closed Session. Closed Session may take place any time after public testimony, but is typically held on Tuesdays at 9:00 a.m. The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

NOTE: Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the closed session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session 4) Refer matters discussed to closed session.

PUBLIC NOTICES:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 7, 2006 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	6/16/2006	144	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	6/21/2006	139	Rules Committee review of ballot proposals
Monday	6/26/2006	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	7/10/2006	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	7/31/2006	99	Council adopts ordinances prepared by City Attorney
Friday	8/11/2006	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	8/24/2006	75	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4030.

NON-DOCKET ITEMSADJOURNMENT IN HONOR OF APPROPRIATE PARTIESADJOURNMENT